

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 10 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

ADVEN JOHN,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 03-74584

Agency No. A75-484-763

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 8, 2006**
Pasadena, California

Before: GRABER, WARDLAW, and RAWLINSON, Circuit Judges.

Petitioner Adven John, a native and citizen of Pakistan, contends that the
BIA abused its discretion when it denied his motion to reopen his removal

* This disposition is not appropriate for publication and may not be cited to
or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral
argument. *See* Fed. R. App. P. 34(a)(2).

proceedings because of changed country conditions, and for adjustment of status due to his marriage to a United States citizen. We disagree.

John's motion to reopen would be timely only if he met the "changed country conditions" exception to the applicable limitations period. However, John failed to present evidence that would compel a reasonable factfinder to conclude that although he "previously did not have a legitimate claim for asylum[, he] now has a well-founded fear of future persecution." *Malty v. Ashcroft*, 381 F.3d 942, 945-46 (9th Cir. 2004).

Because John's motion to reopen was not timely filed, the Board's decision not to reopen proceedings to allow John to seek adjustment of status was also within its discretion. *See In re Velarde-Pacheco*, 23 I. & N. Dec. 253, 256 (B.I.A. 2002).

The petition for review is **DENIED**.